FILE COPY

No. 494.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1931.

UNITED STATES OF AMERICA, APPELLANT (BELOW),

v.

GEORGE OTIS SMITH, APPELLEE (BELOW).

ON CERTIFICATE FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

JOINT MOTION TO ADVANCE.

JOHN W. DAVIS,
ALEXANDER J. GROESBECK,
Counsel for Appellant.

GEORGE WHARTON PEPPER,
Counsel for Appellee.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1931.

No. 694.

UNITED STATES OF AMERICA, APPELLANT (BELOW),

v.

GEORGE OTIS SMITH, APPELLEE (BELOW).

ON CERTIFICATE FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

JOINT MOTION TO ADVANCE.

The United States of America, appellant below, and George Otis Smith, appellee below, in the above-entitled cause, move that this case be advanced for early hearing, and in support of this motion make the following brief statement of the matter involved, and the reasons relied upon for the advancement:

The United States of America petitioned the Supreme Court of the District of Columbia for a writ of *quo warranto* to determine the right of one George Otis Smith to hold the offices of member and chairman of the Federal Power Commission. The cause was heard on Petition and Answer and upon a Stipulation of Counsel embodying the Rules of the United States

Senate governing reconsideration from February 25, 1790, to date, and numerous historical precedents thereunder, which precedents were taken from the Executive Journal of the Senate, the records of the Executive Offices of the White House, and the records of the executive departments concerned.

On December 22, 1931, the Supreme Court of the District of Columbia entered its order dismissing the petition for a writ of *quo warranto,* to which action of the Court the United States of America took exception and noted an appeal to the Court of Appeals of the District of Columbia. On February 12th, 1932, the Court of Appeals of the District of Columbia, in which Court said appeal is pending, filed a certificate with your Honorable Court stating a definite and distinct legal question on which it desired the instruction of the Supreme Court of the United States, and stating the facts deemed material to the decision of such question.

The parties to this cause are desirous, in the interest of justice, of effecting a speedy termination of said cause and settlement of the questions therein raised, for the following reasons:

1. The case presents questions of great public interest involving the construction of provisions of the Constitution of the United States, and the delimitation of the respective powers of the President and the Senate of the United States in connection with the making of appointments by and with the advice and consent of the Senate.

2. In this action the right of George Otis Smith, Appellee below, to act as a member of the Federal Power Commission is challenged by the United States of America.

3. Many questions of great public importance are continually being presented to the Federal Power Commission, and it thus becomes a matter of vital public interest to determine speedily the validity of the chairman's title to the office, the duties of which he is actually discharging.

Wherefore, the United States of America, Appellant below, and George Otis Smith, Appellee below, pray that the case be advanced upon the calendar and assigned for hearing at an early date at the convenience of the Court.

Respectfully submitted,

JOHN W. DAVIS,

ALEXANDER J. GROESBECK,
Counsel for Appellant.

GEORGE WHARTON PEPPER,
Counsel for Appellee.